

## **The Rights of the Child in India**

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### **ABSTRACT**

The practice of child protection has undergone a significant change when seen from a historical perspective in India. The Indian Constitution accords the rights to children as citizens of the country. The Constitution encompasses most of the rights of the children included in the UN Convention on the Rights of the Child under the headings of Fundamental Rights and Directive Principles of State Policy. India has made significant commitments towards ensuring the basic rights of the children. India is home to the highest number of child laborers in the world. The children are made to work by compulsion and not by choice. The parents also sell their children for employment in hotels, workshops, brothels and domestic

work. There is more number of children who are not protected from various forms of exploitation. The children working under exploitative and inhuman conditions are not loved and protected. The children are neglected by the parents, relatives and other members of the society. The unfavorable and inhuman living conditions of under privileged children are responsible for the deprivation of the right of the children to development. A majority of the poor and needy children in India do not enjoy the right to recreational pursuits like sports, entertainment and hobbies in India. A vast majority of underprivileged children in India are treated like commodities and exported to other countries as labor or prostitutes. They are deprived of their right to name and nationality. The children die in good number between the age of 1-5 due to poverty, ill health, malnutrition, gender discrimination and other problems. They are not in a position to enjoy the right to survival due to several social and economic constraints.

## **Preamble**

The children constitute the most vulnerable section of society in India. The socio-economic conditions are mainly responsible for the violation of child rights in different forms. The practice of child protection has undergone a significant change when seen from a historical perspective in India. The Indian Constitution accords the rights to children as citizens of the country. The Constitution encompasses most of the rights of the children included in the UN Convention on the Rights of the Child under the headings of Fundamental Rights and Directive Principles of State Policy. India has made significant commitments towards ensuring the basic rights of the children. The rights of the child in India are delineated in this article based on qualitative research methodology.

## **Status of Children in India**

According to the Census Report (2011), about 1/3 of the population of the country is below 18 years. India has the largest young population in the world. About 35% of the developing world's low-birth weight babies are born in India. About 40% of the children in India are suffering from food crisis, ill health, malnutrition and allied problems. The number of girls in the 0-6 age group is declining in India. For every 1000 boys there are 927 females in the country. About 20 children out of every 100 are school drop outs. About 70 children out of 100 leave the school at the secondary level. There are about 66 girls out of 100 children who are drop outs. About 65% of the girls in India are married by the age of 18 and become mothers soon after. India is the home to the largest number of child laborers in the world. India also has the world's largest number of sexually abused children.

## **Constitutional Provisions for Children**

There are several constitutional provisions for the protection of children in India.

- Article 14 guarantees equality before law to all citizens including the children.
- Article 15 guarantees right against discrimination and affirm the right of the State to make special provisions for women and children.
- Article 21 guarantees personal liberty and due process of law to one and all.
- Article 24 provides that no child below the age of 14 shall be employed to work in any hazardous employment.
- Article 29 ensures the rights of minorities for protection of their interest.
- Article 37 ensures that the government has the flexibility to undertake appropriate legislative and administrative measures to ensure child rights.

- Article 39 (e) of the Directive Principles of State Policy provides that children of tender age should not be abused and that they should not be forced by economic necessity to enter vocations unsuited to their age or strength.
- Article 39 (f) of the Directive Principles of State Policy requires children to be given opportunities and facilities to develop in a healthy manner and in conditions of freedom and dignity, and that childhood and youth be protected against exploitation and moral and material abandonment.
- Article 45 of the Directive Principles of State Policy provides for free and compulsory education for all children until they complete the age of 14.
- Article 46 recognizes the right of weaker sections of the people to be protected from social injustices and all forms of exploitation.
- Article 47 provides the right to nutrition and standard of living and improved public health.

### **Government Policy on Children**

The Government of India adopted National Policy for Children in 1974 and there was a shift of focus from child welfare to child development. The policy was intended to ensure effective services for children in the areas of education, health, nutrition and recreation with special emphasis on the weaker sections of society. The Government of India has taken a number of measures related to child rights protection and child development in India. The Ministry of Women and Child Development was established on a full-fledged basis.

The National Plan of Action for Children (NPA) was prepared by the Government of India under the title 'A Commitment to the Child' with a focus on various target groups of vulnerable children and called for improved protection of these children. The plan was indeed an outcome of an inter-sector, inter-department coordination and covered areas of health, nutrition, water and sanitation, education, children in need of care and protection, girl child adolescent girls, children and environment, women advocacy and people's participation, resources monitoring and evaluation.

The National Plan of Action for the Girl Child was formulated during 1991-2000 by the Government of India in order to ensure the survival and protection of the girl child, safe motherhood, overall development of the girl child and special protection for vulnerable girl children in need of care and protection. The vulnerable groups of children included – street children, orphaned, abandoned and destitute children, working children, abused children,

children who are victims of commercial sexual exploitation and trafficking, children engaging in substance abuse, children in conflict and disaster situations, children in families at-risk, differently able children, mentally ill children, HIV/AIDS affected / infected children and juveniles in conflict with the law.

The National Charter for Children (2003), National Plan of Action for Children (2005) and enforcement of the National Commissions for Protection of Child Rights Act (2006) were formulated and established with a view to protect the interest of children in India. The National Plan of Action was mainly responsible for a comprehensive study of child abuse and initiation of the amendment of law on child marriage. The Prohibition of Child Marriage Bill (2006) enhanced the punishment for those who were involved in child abuse and child marriage activities.

The various five year plan documents also emphasized the need and importance of child development in the country. The Fifth Five Year Plan (1974-79) ensured the integration and coordination of services after the implementation of Integrated Child Development Services (ICDS) in 1975. The Sixth Five Year Plan (1980-85) strengthened child welfare and development processes in the country which led to the spatial expansion and enrichment of child development services through a variety of programme. The Eight Five Year Plan (1992-97) saw a shift of focus from child development to human development through advocacy, mobilization and community empowerment. The Government of India declared its commitment to every child development in the Ninth Five Year Plan (1997-2002). The Tenth Five Year Plan (2003-2007) advocated convergent / integrated rights based approach to ensure the survival, development, protection and participation of children. Certain progressive measures such as reduction in gender gaps, literacy promotion, reduction in infant mortality rate, reduction in maternal mortality rate, arresting the decline in the child sex ratio, universalisation of ICDS scheme and so on were implemented all over the country. The Eleventh Five Year Plan (2007-12) emphatically stated that 'development of the child is at the center of national development approach'. The plan document emphasized the child rights based approach and highlighted the holistic approach to child development in the country. The Twelfth Five Year Plan (2012-17) also emphasized the need for adequate child rights protection and integrated child development in India.

### **Child Rights in India**

The children are treated in India as holders of rights on par with other citizens. Child rights in the family, school and community are examined by the scholars, policy makers and other stakeholders of child rights protection. The family is the core unit of society and the major source of development of children. An enriching and nurturing family life is essential for the protection of child rights and development of child's personality. The stakeholders have also realized that there is a need to integrate various policies to strengthen the family as a unit, enhance child development in the family and prevent child destitution. The school is also another important institution which is responsible for child rights protection. The educational institutions are required to focus on compulsory universal elementary education, strengthen the school system, reorient curricula and promote girl child and other vulnerable groups of children. The community is also responsible for protecting the interest of children through dissemination of information, awareness generation, training, documentation, publication, lobbying, policy development, mobilizing resources and monitoring the progress.

Sharma and Ahluwalia (2000:01) examined the role of education in ensuring the development of human rights and values among the children and noted that children and students who are the future citizens have to be trained to respond to and adjust with the new social changes satisfactorily by equipping them with desirable skills and values. They have noted that as a part of child personality development, particularly in terms of discovering the inherent potential of a child, these needs to be implemented right from the primary stage to the highest level of formal and non-formal education. The scholars have also suggested that appropriate educational approaches and systematic teaching strategies of value education would enable the children to become conscience keepers of the nation later.

Surendra Singh (2008:02) discussed the issue of prevention of child abuse in India extensively. He observes: "It is mainly because of the increasing tendency of people including parents, guardians and teachers to abuse and exploit children that the attention of the entire world community has been drawn towards this problem which is gradually assuming alarming proportions. India has ratified the UN Convention and stands committed to protect her children against all forms of abuse and exploitation. India has provided protection to children by enacting two specific pieces of legislation namely, Juvenile Justice Act, 1986 and Child Labor (Prohibition and Regulation) Act 1986. Persistent child abuse creates a number of problems in the personality of the abused child. The problem of child

abuse, particularly in terms of child labor, child sex abuse and organized involvement of children in begging and drug trafficking has become fairly wide-spread in the country and it has taken the form of a burning social problem”.

Despite constitutional guarantees, government's schemes and allied child development initiatives, a vast majority of children in India are still suffering from series of hazards and deprivations. Child rights activists in India have noted that millions of children face wide spread deprivation and discrimination mainly due to adult centered decisions and actions concerning child rights protection in India. The media report increasing instances of child abuse and child exploitation despite constitutional guarantees and civil rights. The growing number of 'poor children', 'working children' and 'marginalized children' indicates the existing sorry state of affairs in the country with respect to child rights protection especially in the age of privatization, liberalization and globalization. Violations of child rights occur more in respect of the children representing the poor and downtrodden communities as compared to middle class and upper class children.

The children do not constitute a homogeneous community in India which is divided into different categories based on social and economic divisions. The approaches of the government basically remain welfarist and child rights are examined from the point of view of adults rather than children. The governmental initiatives are indeed adult-centered but not child-centered in reality. The Indian laws are also neither child friendly or child-oriented since family laws make distinction between legitimate and illegitimate children depending on the status of their parent's marriage or relationship.

A large number of children are not enjoying the benefits of universal education, basic education and vocational education in India. A majority of children including the girls are dropout of school due to several reasons. An examination of state policies and programmes reveals that child education in India suffers from series of constraints and limitations. There are more number of children who have the benefit of access to mainstream schools which are not properly equipped in terms of men and materials. The Free and Compulsory Education Bill, 2003 has also attracted severe criticism of the educationists and activists for several lapses and constraints. The recent 93<sup>rd</sup> Amendment bill intends to make education a fundamental right of the children.

The health of Indian children continues to be a matter of grave concern, especially in the age of globalization. The privatization of health services has caused a death blow to the health and progress of a vast majority of Indian children who represent socially and



economically weaker sections. There is increasing environmental degradation and pollution which have led to deterioration in children's health. The children are suffering from food crisis, starvation, malnutrition, health disorders and other constraints. There is no specific law which addresses the issue of public health in India. The primary health care system still remains malnourished in India. The population policy continues to remain as children unfriendly. There is no mention of child health in the National Health Policy, 2000 and other health programmes of the central and state governments.

The children in rural and urban areas continue to work in hazardous working conditions even though The Child Labor (Prohibition and Regulation) Act was enacted in 1986. The Act leaves out a large range of activities that children are engaged in and are exploited and abused. The child trafficking has assumed an alarming proportion in India. The adoption of children continues to be determined by religion, caste, color, creed and other extraneous factors which impede the progress of children. The personal laws of the religions do not allow healthy adoption of children who are victims of circumstances. The instances of selling of babies from poor families are reported in the media frequently. Many children are homeless or living in unhealthy conditions on account of displacement in the name of development and progress. In times of natural calamities, the children are worst affected.

Child participation in the process of child rights protection programmes is yet to become a reality in India. The children are right to participation as not being actualized in India mainly due to lack of political will and social activism. The children have to go a long way before the inclusion of children's participation is internalized and accepted widely in a developing country like India. Most of the children are not aware of their rights, constitutional safeguards, government policies, welfare measures and other activities. The right to education, the right to expression, the right to information, the right to nutrition, the right to health care, the right to protection from abuse, the right to protection from exploitation, the right to protection from neglect, the right to development, the right to recreation, the right to name and nationality and the right to survival are not fully and properly guaranteed to the children of India for various reasons.

The plummeting sex ratio in India clearly reveals that the very existence of the girl-child is under threat. The female – male balance in India has been adverse to females for at least 100 years. The juvenile sex ration in the 0-6 age group has fallen down over a period of time in India. The re-emergence of infanticide is taking a heavy toll in the country due to lack of political will and social responsibility.



According to the latest statistics, about 50% of Indian children aged 6-18 do not go to schools and that the dropout rates increase in case of boys and girls after the secondary level in India. Many children remain as dropout after the elementary level due to several factors. Prominent among them include – economic backwardness of the parents, inadequate school infrastructure, poor quality of education, gender unfriendly educational system, disabled-unfriendly services, caste-discriminatory education and so on. Hence, the right to children's education is not fully honored.

The children are not encouraged to express their views in a free and fair atmosphere within and outside the family because of their tender age and other limitations. Most of the children in India are not allowed to enjoy their right to expression. In the age of information explosion and right to information, most of the children representing the under privileged section of society are not in a position to exercise their right to information.

A majority of the children representing socially and economically weaker sections of the society are facing the problems of hunger, starvation, ill health, malnutrition and so on. They are deprived of their right to nutrition. The child malnutrition is generally caused by a combination of inadequate and inappropriate food intake, gastrointestinal parasites and other childhood diseases. A majority of Indian children do not receive any form of vaccination, remain anemic and suffer from low birth weight in the country. About 50% of the below the poverty line families in India are out of the purview of the targeted public distribution system. Many families and children in India are facing the problem of food insecurity. The direction of Supreme Court of India to provide adequate and nutritious food to the citizens and children assumes great significance in order to enable the people to stay alive and healthy.

Child health care facilities are not decentralized in the country. Children are also suffering from ill health due to lack of public health services in remote and interior regions of the country, poor access to subsidized healthcare facilities, declining State expenditure on public health, lack of awareness about to prevent to child healthcare and other constraints. India has the world's largest number of sexually abused children. They are subjected to both physical and mental abuse. They are not fully guaranteed the right to protection from abuse.

The UNICEF (2005:03) reported that millions of Indian children are deprived of their right to survival, health, nutrition, education and safe drinking water. It was reported that about 63% of children go to bed hungry and 53% of them suffer from chronic malnutrition. About 147 million children live in kucha houses under miserable conditions while about 77 million do not use drinking water from the tap. About 85 million are not immunized and

another 27 million are severely malnourished and underweight. About 72 million children in India between 5-14 years do not have access to basic education. The girl child is the worst victim of circumstances in Indian society.

### **Conclusion**

India is home to the highest number of child laborers in the world. The children are made to work by compulsion and not by choice. The parents also sell their children for employment in hotels, workshops, brothels and domestic work. There is more number of children who are not protected from various forms of exploitation. The children working under exploitative and inhuman conditions are not loved and protected. The children are neglected by the parents, relatives and other members of the society. The unfavorable and inhuman living conditions of under privileged children are responsible for the deprivation of the right of the children to development.

A majority of the poor and needy children in India do not enjoy the right to recreational pursuits like sports, entertainment and hobbies in India. A vast majority of underprivileged children in India are treated like commodities and exported to other countries as labor or prostitutes. They are deprived of their right to name and nationality. The children die in good number between the age of 1-5 due to poverty, ill health, malnutrition, gender discrimination and other problems. They are not in a position to enjoy the right to survival due to several social and economic constraints.

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